

TAB 2



Not Reported in F.Supp.2d  
Not Reported in F.Supp.2d, 2006 WL 3334951 (D.Del.)

Page 1

**F**ederal Insu. Co. v. Bear Industries, Inc.  
D.Del.,2006.

Only the Westlaw citation is currently available.

United States District Court,D. Delaware.  
FEDERAL INSURANCE COMPANY, as subrogee  
of Bracebridge Corp., MBNA America Bank  
(Delaware), N.A., MBNA America Bank, N.A., and  
MBNA Technology, Inc., Plaintiff,  
v.  
BEAR INDUSTRIES, INC., Defendant.  
**No. 03-251 SLR.**

Nov. 16, 2006.

[Sean J. Bellew](#), Cozen O'Connor, Wilmington, DE,  
for Plaintiff.

[Norman H. Brooks, Jr.](#), [Megan Trocki Mantzavinos](#),  
Marks, O'Neill, O'Brien & Courtney, P.C.,  
Wilmington, DE, for Defendant.

#### MEMORANDUM ORDER

[ROBINSON, J.](#)

\*1 At Wilmington this 16th day of November, 2006,  
having reviewed defendant's motion for review of  
costs, and the papers submitted in connection  
therewith;

IT IS ORDERED that defendant's motion is granted  
in part and denied in part, as follows:

1. Service of Summonses and Subpoenas by Private  
Process Server. Such costs are generally granted as  
reasonable expenses, consistent with the reasoning  
underlying [28 U.S.C. § 1920\(1\)](#). Therefore,  
defendant's costs of \$568.00 to serve summonses and  
subpoenas using Delaware Attorney Services are  
taxed against plaintiff.

2. Deposition transcripts. Court reporter fees may be  
taxed "for all or any part of the stenographic  
transcript necessarily obtained to use in the case."[28](#)  
[U.S.C. § 1920\(2\)](#). Local Rule 54.1(b)(3) provides that  
deposition costs are taxable "only where a substantial  
portion of the deposition is admitted into evidence at

trial or otherwise used in the resolution of a material  
issue in the case."(Emphasis added) Defendant's use  
of the deposition transcripts to prepare for examining  
witnesses is considered a routine use and not one  
specifically directed to resolution of a material issue  
in the case. With respect to the use of the deposition  
transcripts of the expert witnesses vis a vis the  
motions in limine, the court notes in this regard that  
all of the motions filed by the parties to exclude the  
testimony of the opposing experts were denied. The  
court is not inclined to reward any party for filing  
such frivolous motions. Moreover, because the case  
has been archived, the court has no way of  
confirming what role, if any, such depositions played  
in resolving the motions. Therefore, such costs will  
not be taxed against plaintiff.

3. Exemplification and copies of trial exhibits/costs  
of maps and charts. Defendant has supplemented the  
record to demonstrate that the requested copying  
costs are associated with admitted exhibits. The court  
is satisfied that the costs are now adequately  
supported and should be taxed against plaintiff in the  
amount of \$2,677.60. With respect to certain of the  
admitted graphs, for which defendant apparently  
requests \$7,087.50 (40.5 hours x \$175), the court  
declines to tax this cost against plaintiff, as defendant  
has failed to demonstrate that the time spent and the  
hourly rate charged by the consultant were  
reasonable.

D.Del.,2006.

Federal Insu. Co. v. Bear Industries, Inc.

Not Reported in F.Supp.2d, 2006 WL 3334951  
(D.Del.)

END OF DOCUMENT